App F IX 4

Previous References (1941 / Mil)

File No 112-41

Serial Nos 32, 33, 36, 44

Later References
Mil 113-42-60, 61, 82, 86

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 36, 44

Part B for April 42

SUBJECT

Levy of Education cess in the Nilgiris by the Municipality

To, The D C Tinnevelly
~~The D C Chingleput~~ ~~Chingleput~~
L 9600 / 10-4-42

Issues certain instructions in the -

The D s of Districts
The Executive
The D P I
L 9601-11/10 4 42

the copies of the above

Mem
18.4.42

Levy of Education Cess in the Municipalities

General and Revenue Secretariat | ML File No 112 of 1941 | [App F III-2

Serial No 36

R

Letter no A6 c 3189/41 42 dated 17-2 42 from the Deputy Commissioner Tumkur Dist, Soliciting instructions as to the procedure to be adopted with regard to the levy and Collection of Education Cess in the Municipalities

It has been ordered in G O dated 16-10 41 that an Education Cess of two annas in the rupee be levied on the items of Municipal Revenues noted below -

1 Tax on buildings and lands &
2 Professional Tax.

As this Cess has been levied in accordance with the provisions of the Elementary Education Act 1941, the Municipal Councils cannot interfere with its levy

The Dy Comr Tumkur Dist has reported that the Municipal Councils of his Dist noted in the margin have resolved to request Govt to abolish the levy of the Cess in question mainly in view of the financial difficulties of the people and the consequent hardships at present

1) The Madhugiri Town Municipal Council
2) The Chikkanayakanahalli
3) The Sira Town Municipal Council
4) The Tiptur Town Municipal Council
5) The Kunigal

NOTE—Cont Sheet

WD 041 —GPB—55 000— 3 10-41

Education Cess Levy in Municipalities

File No of 194 | General and Revenue Secretariat

Serial No

3 The by-laws has further stated that the president Trivandrum Town Municipal has expressed certain doubts as to the procedure to be adopted for the recovery of the cess, and wants to know if any percentage of the collections of the cess would be paid to the Municipalities for ~~having done~~ the collection work.

4 The by laws has solicited instructions as to the procedure to be adopted in the Municipalities for the recovery of the cess

The points for orders are -

1) Whether the Municipalities shall have pleaded inability to be exempted from the levy of the Education Cess

2) Whether it is necessary for the Municipalities to adopt the procedure prescribed in Section 62 of the T.M Act or otherwise what other procedure should be adopted

3) Are the Municipalities entitled to any Commission for ~~having done~~ the collection work which does not come under the Municipal

Serial No

of the Municipalities Act-

As with regard to the first point, it may be stated that this cess has been levied with a view to meeting the increased expenditure in respect of Primary Education the Municipalities will also be benefited by the opening of more Schools for which object the cess has been levied If exemption is granted to any one municipality on grounds of poor financial condition, the other municipalities will undoubtedly claim for a similar concession for the making of that, and the financial position of all the most of municipalities is unsatisfactory Further, it would not be proper for the municipal councils to pass a resolution regarding the levy of the Education Cess, as it does not come under the Municipalities Act- On a similar representation of the Shimoga Town Mal Cl, it was ordered that the Cess has to be collected irrespective of any resolution that might be passed by the municipal Councils

NOTE—Cont Sheet

WD 14155—GPB—55 000—28 10-41

Serial No

(6) Regarding the Second point, it is submitted that the procedure prescribed in Section 62 of the T M Act does not apply as this is not a tax under the said Act. All that the Mnl Cls have to do for the recovery of the cess is to include it in their bills for the recovery of the Mnl taxes. If, however, the Municipal Councils refuse or fail to collect, the procedure prescribed under Section 200 of the T M Act will have to be adopted.

As to the third point with regard to the payment of "percentage of the collections" (this point is raised by the President Tumkur Town Mnl Cl) no provision is made in the G.O levying the Education Cess. It may however be noted here that contributions out of General Revenues are being paid to the Municipalities for Town Improvements Etc and the Mnl Cls cannot protest against the work that they have to do for the recovery of the Cess that is levied for the progress of Education in the State. The Mnl Cls have to collect the Cess & make it over to Govt, just as the Govt collects the local cess etc for the Dist Boards & hands over a certain percentage, according to Standing orders. This is a matter of mutual obligation

a matter for the Government of Govt
collects the

Levy of Education Cess in the Municipalities

4790
d

General and Revenue Secretariat | M/ File No 112 of 194 / [App F III-2

Serial No

Submitted for orders

Thus 25/2/42 Most of the points raised by the D C Tumkur Cannot be regarded as material or as requiring any serious consideration, for, ah this rate the working of the Elementary Education Act would itself be jeopardised One point however, viz, Commission to the Mcltes for Collection, seems to deserve some notice Although they have no moral justification to demand any Commission, deriving as they do their position, power, property etc from Govt, it is not clear whether there Could be a legal binding on the Municipal Councils not to demand any Commission However, as the Cost of any additional Establishment that may be sanctioned by the Mcl Cls for Collecting the education Cess may have to be reimbursed to them by Govt - Such this question need not perhaps be raised now, as it is yet in a nebulous state

A draft is submitted for Consideration on Consultation with the Gl Secy

28/2/42

J Rawlley 27/2/42

Gen Secy M/C

11 Th 3/3 3/3/42

SECY LAW DEPT 1849 3 7 1042 GOVT OF MYSORE

NOTE—Cont Sheet

WD 1415—G I E—55 000— 3 10-41

Levy of Education Cess — Mtge on Turuvekere D L

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Serial No

12 ✓ for perusal Minister L S G)

Hm 2 3/3/42

13) In para 2 of the draft it is stated that some municipalities are levying the cess but may be required

Hm 2 10/3/42

Hm

Should see para 5 of GO 3/16/10/41 may the draft come?

Eg 10/3/42

13) Pl consult the Edn Branch and find out if Cess is being levied in any of the Mtgs in the Turuvekere Taluk and if they are included within the 25 Mtgs referred to in para 3 of the said GO 3/16/10/41

Eg 11/3

14) From the reference invited to the Statement that had been prepared on the main file re levy of Cess it is seen that an Education Cess of 6 pies was being levied in Turuvekere Municipal area [illegible] after the inclusion of the Cess or Tax for Purpose now ordered

Q

4149

11/3/42

Eg 12/3/42

J

Levying Education cess - Travancore
DSIR

General and Revenue Secretariat | File No 1790/2 of 194 | [App F III-2

Serial No

17) ~~Correspondence regarding~~
Subd for - personal before relinquishing this file to the LSGRs
for query
7/3 2013

LSGRs 2013

LSGRs,

Hyg Q

18) With ref to para 13 of the
Notes supra, kind refer to words
in para 5 of G.O. dated 7th x 41 (Hyg)
according to which as Mills who
levying the Edn cess (vide also Hyg
Circular - the names of such Mills need furnish
Edn Department) - Hyg
(19) Para 2 of the letter has been
clarified by the addn of extra words
as may be approved

Law Secy 25/3/42

Minister
LSG

Hyg
2
25/3/42
Hyg
6-4
1602
with
Secy
Law
LSGRs

EOY LAW DEPT
2491
2 3 2
DY TO MYSORE

OFFICE OF THE
FOR LSGRs
Dt 27 3 42
No 5926

NOTE—Cont Sheet

WD 041 5—GPB—5 000— 8 10 41

NL File No 112 of 194 1

General and Revenue Secretariat

Serial No

To

The Dy Comr, Tirunelveli Wise-
No L 9600 d 10-6-42
- Issues contain instructions

B
BG

2nd to Ex
Br
14/4

GEN & REV SECR 4790 18 FEB 1942 L S G BRANCH

GOVERNMENT OF MYSORE

Tlg plce Add

Mi 112-41-36

OFFICE OF The Deputy Commissioner,
Tumkur District,
Tumkur

No A 6 C 3189/41-42
Encls

Date 17th February 1942

To

SECY LAW DEPT 13 FEB 1942 GOVT OF MYSORE

H V Narayana Rao, Esq , B A ,LL B
Secretary to Govt of Mysore,
Law Department Bangalore

Sir

Re Levy of additional education cess on items of municipal revenue

--00--

Adverting to G O No E 1358-71/Edn 195-40-2 dated 16th October 1941 on the above subject, I have the honor to state as follows -

The Presidents of town and minor Municipal Councils and the Amildar in charge of Gubbi Town municipality, who were asked to levy the additional education cess as contemplated in the G O under reference from 1941-42 have expressed their difficulty in regard to the procedure for the levy of the same as there is no provision under section 62 of the Town Municipalities Act of 1933 or under the Taxation Rules relating to the Minor Municipalities The President, Tumkur Town municipality feels doubtful as to the procedure to be adopted and in case, the levy of this cess is under the provisions of this Act, the preliminary procedure prescribed in Section 62 of the Act becomes obligatory to be observed which may involve some time and therefore the levy cannot be given effect to from 1-7-1941, vide proviso to Section 64 of the said Act If the levy is not under the provisions of the above Act, but some other law, then the Municipality will be a mere collecting agency as is now done (by the Revenue Department) in respect of the local cess for the District Boards, if so, what percentage of the collections would be paid to the respective Municipalities (collecting agencies) and he further seeks instructions for the procedure to be followed, in the matter

The President Madhugiri Town Municipal Council states that the Council, have at their meeting held on 2nd November 1941 resolved that Government be requested to exempt this Municipality from the levy of the said cess

The President Town Municipal Council, Chiknaikanahalli states that the Council at their meeting held on 30th October 1941 have resolved that their Municipality be exempted from the levy of this cess, in view of the following circumstances

1 The arrears to be collected are very heavy amounting to Rs 7,000/-

2 The people are all agriculturists

3 The present buildings on which this levy has to be made are all in dilapidated condition

4 The Council is contributing Rs 440/- every year towards the Primary Education etc,

The President Sira Town Municipal Council states that the Council at their meeting held on 25-12-1941 have resolved that in view of the difficulty to pay the existing taxes owing to failure of rains and the poor crops raised, the additional education cess may be abolished

The President Tiptur Town Municipal Council states that the Council have at their meeting held on 22nd October 1941, resolved that in view of the heavy taxes now in force, Government be requested to abolish the levy of the same If this levy has to be given effect to, the total tax would come to 9 annas per rupee In view of the present international difficulties, the prices of all food stuffs have gone up very high and as it is very difficult for people to eke out their livelihood, this levy of the cess would result in hardship to the people

The President Town Municipal Council Kunigal states, that the Council, have at their meeting held on 29th November 1941 resolved that the present taxation is heavy and Government be requested to abolish the levy of the same

The Presidents of the Minor Municipalities of Pavagada and Koratagere have stated that action would be taken to collect the same

Under Section 9(3) of the Mysore Elementary Education Act of 1941, Government may, for carrying out the purposes of this Act, levy throughout or in any part of Mysore, an Education Cess or an additional education cess on any or on all such items of State revenue or revenue forming part of a tax under the Municipalities Act of 1933 or the District Boards Act of 1926 at rates not exceeding those specified in the schedule to this Act

As education cess has not been levied in any of the Municipalities of this District, so far, and as some of the Municipal Councils have experienced difficulties in regard to the procedure to be adopted to the levy and collection of the same, I request that instructions may be kindly issued in the matter

I have the honor to be,
sir,
Your most obedient servant,

Deputy Commissioner,
Tumkur District

AD 17/2

Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the *19*

Date of issue 10.4.42

Signed by L.G.Rao

List of enclosures 1

Copied by

Examined by

Section Ml

File No 112 41

Serial No 44

No L.9600

To The Deputy Commr

Tanjore Dt Tanjore

Sir

Levy of education Cess on

claims of Municipal Vehicles

With reference to your letter No A 6 C 3189/41-42 dt 17.2.42 on the subject, I am directed to observe as follows on the several points raised by you -

Source of authority for the levy

The levy is not imposed under the provisions of either the Town or Minor Municipalities Act 1933 but under section 9 of

of the new Elementary Education Act of
1941 implemented by Govt No E 1358-71/
Edn-195-40 2 dy 16 X 1941 the
procedure laid down in Section 62 of
the Town Mcties Act is not therefore to
necessary to be followed

2 Collection The Municipalities are
no doubt the Collecting Agencies as
stated by you But Cess is not altogether a
new levy but only an additional one,
and in fact some Municipalities in the State (including Tuticorin in the Tinnevelly Dist)
were levying the education Cess even
before the E E Act of 1941 (with powers of fix. refn to above)
Again, the
Cess is included to "make more satis
factory provision for the progressive expansion
of elementary education in which
the Municipalities are obviously as
much included as the Govt The Collection
of the Cess has therefore to be regarded
as a duty levied on the Mcties under
Section 200 of the T M Act, not by
the Municipal Laws, but by the E E Act

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(Continuation sheet draft form)

of 1941 After all, this case has only to be concluded on the bills for Mt taxes prepared by & presented to the ratepayers the Mt officers & N question would arise in these circumstances of payment of any percentage of education Cess Collections to the Mt Govt

3 Exemption from the levy The education cess is a ~~discretionary~~ not compulsory levy, not under the Municipal Law, but under the E E Act of 1941 and is therefore beyond the purview of the Municipal Act and not determinable by any resolutions of the Mt Council As regards the Contention of the Chokkanathapuram Town Mt Council that they are paying annual an Contribution of Rs 4440/, it has to be stated that this Contribution will automatically cease with the levy of the said Education Cess, under rule 11 of the G O 3/16 x 41 refd to above

As the education Cess is

WD 03608—GPB—15 000—8-7-35

a Compulsory levy under a law
no question of exemption could
arise This point meets the
question taken up by the Town M[unicipal]
Councils of Sivamogga Tarikere & Kumsagal

I am ~~sent~~ to request that
the several M[unicipal] Councils be accordingly
advised to ~~collect~~ make arrangements
to Collect the education Cess forthwith
delay A copy of the instructions
issued to the D C Shimoga accompanies
for Your information

I have etc

from
Hon'ble Sri
Land Revenue

Memo No L 9601-11 dated 10 4 42

Copies to 1 2 3 4 5 ✓
2 Comptr ✓
~~the DCs~~ of the Districts
Bro
from
Govt Land Revenue Sec

Copy to Secy Bro ✓

26/2/42